

# Frequently Asked Questions

Common Questions and Answers updated as of August, 11, 2014:

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**Q.1** Does the Department have the ability to waive the capture rate threshold limits of Section 4.11 if the sponsor and/or market analyst can justify a higher capture rate based on prior operating history and/or other factors. This seems particularly important for projects within the Department's existing portfolio. Otherwise, the Department may be left with aging assets with no access to the funding programs designed to support on-going preservation of affordable housing.

**A.1** *Section 6 of the Guide permits the Department to grant waivers of the criteria and procedures in the Program Guide. Requests for waivers of the capture rate threshold limits of Section 4.11 should be submitted in accordance with Section 6. As of June 30, 2014, DHCD has considered and approved 3 waivers of these limits for senior projects using DHCD's noncompetitive financing programs, including the Multifamily Bond Program. Two of the senior projects are in DHCD's existing portfolio and one is new construction. Justification for a waiver of the limits should include information about the historic occupancy of the project and other similar projects in the market area, waiting list information, and any other information that will assess the current and future demand for the units. For existing projects, information about the prior housing situations of the existing residents should also be provided. The capture rate calculation generally includes only renter households who are income qualified and accounts for occupancy of 100% of the units, even for existing occupied properties. Information about existing residents and historic occupancy may demonstrate that the capture rate calculation should be include income-qualified homeowners in the market area or consider less than 100% of the units because existing residents moved from outside the PMA. DHCD will review the information provided, as well as consider its own experience and information in making a decision on a waiver request. Such requests should be submitted in advance of application whenever possible and should include a current market study for the subject property*

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**Q.2** Is an Energy Report required for New Construction projects?

**A.2** *No, an Energy Report is not required for New Construction. The new energy codes are more stringent and will provide for a more energy efficient building. Once the project has been awarded you will need to engage a certified RESNET/BPI rater to review and verify the design. This will also move your new construction project toward certification under Energy Star and help the project to meet or exceed the State of Maryland adopted energy codes. See section 4.12.1 item 2 and 4.12.2 item 2 in the New Guide*

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**Q.3** In the New Guide I can get 3 points under 5.5.3 Energy and Water Conservation for my Rehab project – Why can't I get points for my new construction project?

**A.3** *The new energy codes are pushing new construction standards to an energy increase of 20% or more. We want to make sure the rehab projects also strive for similar improvements and we want to incentivize them to keep pace.*

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<b>Q.4</b>	<b>What if I forget to include something in my application submission and it gets rejected at threshold review, can I just send in the missing information?</b>
<b>A.4</b>	<p><i>If you are competing for 9% LIHTC and/or RHF through a competitive funding round, you may not add missing information at a later time. All application materials must be submitted by the Round deadline. So you must carefully review the application checklists and make sure that you have provided all the necessary information. Incomplete applications will be withdrawn from processing for that competitive Round. If however you feel that you have been rejected in error you have 7 days to request reconsideration. You must make the request in writing as indicated in section 2.3.</i></p> <p><i>If you are applying for noncompetitive funding (MBP and 4% LIHTCs), applications are accepted at any time, so it is easier to correct omissions or mistakes and re-enter the application into processing.</i></p>
<b>Q.5</b>	<b>There is a bus stop in front of the community and two bus lines cross within a half mile. Does this qualify our project as a TOD?</b>
<b>A.5</b>	<p><i>It depends on whether or not any part of your project is within one half mile of the passenger alighting location of a transit node that brings at least two bus lines or other forms of transit (excluding cars) together, as indicated in section 3.2.2. Thus, to be considered a TOD, there must be a bus stop within one half mile from the project where a person can transfer from one bus line to another. It is not sufficient that two different bus lines pass within one half mile of the site. It is also not essential that there be a bus stop at the project.</i></p>
<b>Q.6</b>	<b>Can a real estate tax deferral that is phased in over a period of years be considered a local contribution?</b>
<b>A.6</b>	<p><i>Yes. According to the Guide, real estate tax abatement reduces operating expenses and thus is considered to be a local contribution. (See section 5.4.A.)</i></p>
<b>Q.7</b>	<b>Is it required that applicants certify that they will use an Energy Auditor that is listed on DHCD's approved list?</b>
<b>A.7</b>	<p><i>Applicants should review the approved list of Energy Auditors located on the website. If an applicant wants to use an Energy Auditor who is not on the list, then the name of the preferred auditor should be submitted to Danielle England (England@dhcd.state.md.us) with a request that the name be added to the approved list.</i></p>
<b>Q.8</b>	<b>Is an energy audit required for a gut rehab project?</b>
<b>A.8</b>	<p><i>A gut rehab project could elect to just comply with 2012 IECC or 2010 AHRAE 90.1 and not provide an energy audit with the application.</i></p> <p><i>If the development team is anticipating scoring points in the Energy and Water Conservation</i></p>

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*category (Section 5.5.3), an energy audit must be submitted with the application.*

*If the project receives an award for funding and had not submitted an energy audit with the application, an energy audit would be required to access DHCD energy funding resources.*

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**Q.9**      **If a MAP Lender qualifies as a MBE/DBE, would they be eligible to receive points under Section 5.1.4 of the Guide?**

A.9      *A MBE/DBE-certified MAP Lender would be considered a “specialized professional service provider” under Category 4, Section 5.1.4 and its involvement in a project could qualify the application for 2 points in this category.*

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**Q.10**      **Can an existing, subordinate local government loan be considered an acceptable form of local contribution?**

A.10      *An existing, subordinate local government loan, which will be assumed by the new borrowing entity, will be considered an acceptable form of local contribution and meet the requirements for local contribution outlined in Section 5.4.A of the Guide.*

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**Q.11**      **How is the cost of a parking garage structure evaluated?**

A.11      *The costs related to the parking structure are independently evaluated to determine reasonableness and proper allocation of costs between the garage and residential portion of the building, as indicated in Section 5.4.3 of the Guide. In the event the combined square foot cost of the parking and residential structure exceed the DHCD per square foot cost limit, the project will be subject to negative points*

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**Q.12**      **Section 4.11.3 Capture Rate states that the overall capture rate for a project must not exceed 10%. For mixed income projects, is the 10% capture rate for all units including the market rate component?**

A.12      *Yes—we want a 10% capture rate for all of the units in a project, including any market rate units. No income band or bedroom count may have a greater than 20% capture rate.*

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**Q.13**      **Section 4.11.1 requires that the market study derive a market rent and an achievable rent. If the market study tests 60% achievable rents that will it have addressed this requirement?**

A.13      *The Guide says “derive market rent and an achievable rent and then compare them to the proposed rent.” We want to see this for each income band, not just for the 60% band. The market study should indicate whether the rents proposed are achievable for each income band and not just for the 60% band.*

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**Q.14**      **Are homeless families considered a set aside under the targeted populations in Section 5.3.2? Only Elderly Homeless Families are specifically identified.**

A.14      *No, homeless families are not an eligible target population. Only the named target populations may be used.*

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Q.15	<b>Section 5.5.4 Development Quality says “Building architecture complements the existing neighborhood and project includes exterior features and design elements that add interest, create unity with the nearby style...” Does this mean historic stylistic references and points?</b>
A.15	<i>No, we do not want the designs to be historic stylistic copies; the new buildings should be designed to achieve visual harmony between the building and its surroundings or to create dynamic visual contrast. The architecture should relate with the characteristics of the specific place and context and be designed to consider the local identity and character of the neighborhood - to fit within its surroundings.</i>

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Q.16	<b>Section 5.5.4 states “Architectural accessories such as decorative door surrounds larger window trim, corner eave, cornice and column details or other special features are provided...”. These sound like historic style elements. Can balcony railings or simple/modern bay windows meet the same criteria?</b>
A.16	<i>Yes, the goal is to avoid long expanses of flat planes. The building should include elements that add to the character and composition of the building. Provide architectural detail that marks the entry or articulates the top from the body from the base. Variation in form and material, detailing that provides depth, appeal and interest satisfies this standard.</i>

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Q.17	<b>Under Section 5.1.4, if an application does not receive points under Category 3, is it still eligible for points under Category 4? If so, how many points can be earned under Category 4?</b>
A.17	<i>A project may qualify for a maximum of 2 points under Category 4 whether or not it receives points under Category 3. An application may not “stack” participation under Category 4 to compensate for points it does not receive under Categories 1, 2, or 3.</i>

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Q.18	<b>Under Section 5.3.2, if an application is seeking points under the PWD category, the Guide states that applicants must agree to accept tenant referrals from DHMH and MDOD. Will applications that commit to providing units for Non-Elderly Disabled tenants (NEDs) in support of the City of Baltimore’s Bailey Consent Decree or Thompson Settlement meet this requirement even though the referrals will come from Baltimore City rather than DHMH or MDOD?</b>
A.18	<i>A project may qualify for points under Section 5.3.2 if an application is providing units for NEDs in support of Baltimore City’s Bailey Consent Decree or Thompson Settlement and take referrals from Baltimore City rather than DHMH or MDOD.</i>

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Q.19	<b>Under Section 5.4.3 describes construction cost incentives and construction per square foot (PSF) limits by building type and if the project is new construction or rehabilitation. If the project is one building, but a mixture of 4 and 5 stories. Will CDA accept the determination of the local jurisdiction as to whether the building is to be considered a 4 or 5 story structure for purposes of determining the maximum construction PSF limit?</b>
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A.19 *CDA will accept the determination of stories based on the current State adopted building code classification.*

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**Q.20** **Section 5.1.4 provides scoring categories for different levels of participation and possible scores for Nonprofits (NPs), Public Housing Authorities (PHA), and Minority/Disadvantaged Business Enterprises. Could a qualified community based nonprofit, with a greater than 10% ownership, under Category 2 of Section 5.1.4, receive the full 8 points as an owner only and not also have to be a co-developer in the project?**

A.20 *Yes, a qualified community based nonprofit, with a greater than 10% ownership, is eligible to receive full points in Category 2 of Section 5.1.4 would qualify for full points as an owner only and would not have to be a co-developer of the project.*

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**Q.21** **If a project meets the LEED Certification requirements under Section 5.5.1 will it also satisfy Energy Star Certification as required under Section 4.12.2?**

A.21 *All new construction projects must satisfy threshold requirements as outlined in Section 4.12.2. The application must clearly demonstrate that the project will meet Energy Star Certification. LEED Certification is an optional scoring item under Section 5.5.1. These requirements have been structured as separate items.*

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**Q.22** **Is the percentage of units for Persons with Disabilities, Families, etc. calculated using the total number of units in a property or the number of affordable units in a property?**

A.22 *These percentages are calculated from the total number of units in the property, unless otherwise specified.*

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**Q.23** **Section 5.3.2 of the Guide says “Points will be awarded based on the percentage of units devoted to the target population over and above any minimum requirements that may be imposed by State or federal fair housing laws.” UFAS requires 5% of units to be designated for the physically disabled. Do the units need to be designed for persons with physical disabilities or it is sufficient to set aside and market the units for persons with emotional or mental disabilities?**

A.23 *Units devoted to Persons with Disabilities (PWDs) must accept referrals from DHMH/MDOD. These referrals will be cross-disabilities so they may or may not require physically accessible units. Thus, you do not have to limit the percentage of devoted PWDs units to the same number of UFAS units the project provides. You may provide 5% UFAS and still agree to devote 15% for PWDs.*

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**Q.24** **We have read the *Guide* regarding construction cost limits but would please like clarification. We understand that in order to normalize the costs from project to project for comparison, these stated limits do not include things that are out of the control of the developer such as permits and tap fees, but do include all hard construction costs for site and building (excluding contingency). Is this understanding correct?**

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A.24	<i>The calculation of per square foot cost limits noted in the table provided in Section 5.4.3 of the Guide includes all on-site and off-site development and the total construction contract less any construction contingencies. This total is then divided by the gross square footage of all buildings being built or renovated.</i>
Q.25	<b>Section 5.3.2 of the Guide states that applicants seeking points under this section for PWD must agree to provide notice of unit availability to and accept tenant referrals from DHMH and MDOD. Our application is setting aside 15 units for PWD/SSI/SSDI and we will be taking referrals from those two organizations – do we need to a marketing plan since we are taking referrals from those organizations?</b>
A.25	<i>No, as stated in Section 5.3.2, you do not need to provide a marketing plan with your application if your application has a set aside of units for PWD and you agree to provide notice of unit availability to and to accept tenant referrals from DHMH and MDOD</i>
Q.26	<b>4.11.2, bullet 6 requires that the market study provide an estimate of the number of renter households qualified by income and, if appropriate, age for the targeted program(s) (using the definition of Elderly Household in Section 4.2.2 of this Program Guide) and persons with disabilities or special needs set-asides, if any, in the PMA. How would you recommend the market study comment on the demand for the proposed Targeted Population for a project?</b>
A.26	<i>We would recommend that the market study comment on the demand for the proposed Targeted Population for a project – even if the targeted population units are required by the City or are otherwise 25% or less of the project. Units designated to serve a targeted population to either qualify the project as a priority project or to result in points for the project under Section 5.3.2A are a material component of the project. An estimated number of the targeted population qualified by income, and, if appropriate, by age in the PMA should be included in the market study to pass threshold.</i>
Q.27	<b>Operating expenses is referred to in the sentence discussion rent levels in the PMA. As you know, market analysts do not have ready access to operating expense data. We are addressing this requirement as we have done in the past, comparing proposed expenses to regional IREM standards as well as whatever expense comps we can acquire in the region.</b>
A.27	<i>What you propose will meet threshold.</i>
Q.28	<b>We are creating a CDA checklist to address the requirements for the Market Analysis under Exhibit B of the application. Do you want the checklist in the report itself or a separate document for the applicants to present as an attachment?</b>
A.28	<i>An attachment to the application would be preferred.</i>
Q.29	<b>Can a developer receive 4 points under Section 5.3.2.1 if the developer provides the rental subsidy using their own funds?</b>
A.29	<i>DHCD will not accept a developer provided subsidy as eligible to receive 4 points under Section 5.3.2.1.</i>

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**Q.30** On page 73 of the 2014 Guide, it describes the criteria for awarding enhancement points for storage space such as, “Storage space is reasonable with a minimum of a four (4) foot closet per person in each bedroom, and at least three of the following: an entry coat closet, linen closet, utility closet, or additional storage for storing seasonal or bulky items.” How does CDA calculate the number of persons in each bedroom? For example, assuming a 3 bedroom unit, would an 8 foot clothes closet in the master and a 4 foot clothes closet in each of the other bedrooms qualify for these points?

**A.30** *CDA requires, at a minimum, 4 foot closets in bedrooms with additional space, up to and including, a walk-in closet in the master bedroom. A point will be awarded for this subcategory if this requirement is met in addition to inclusion of at least three of the following: entry coat closet, linen closet, utility closet, or additional storage for storing seasonal or bulky items.*

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